

## REMARKS

In the subject Final Office Action mailed September 20, 2005, claim 35 was objected to because of a drafting informality. Additionally, claims 32-34 and 37-43 were rejected under 35 U.S.C. 102(b) as being anticipated by Kim et al. Additionally, claims 35 and 36 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al. in view of Fukuda et al. Claims 2-9, 11 and 26-28 were allowed.

In response, claim 35 has been amended to correct an informality error. Claims 40-43 have been cancelled without prejudice to facilitate expeditious completion of prosecution on the merit. Claims 13-25 and 29-31 were previously withdrawn and have been cancelled without prejudice in response to Applicants' election with traverse of Invention of Group I in the reply filed on 01/24/05. Claim 32 has been amended. Thus, claims 2-9, 11, 26-28 and 32-39 are now pending. Support for the amendments can be found throughout the specification; no new matter has been introduced.

### Allowed claims 2-9, 11, 26-28

Applicants thank the Examiner for allowing claims 2-9, 11, 26-28.

### Objection to claim 35

The Applicants have presented an amendment to correct for the drafting informality in claim 35 and therefore request that the Examiner withdraw this objection to this claim.

### 35 U.S.C. 102(b) rejections

In the subject Final Office Action, claims 32-34 and 37-43 were rejected under 35 U.S.C. 102(b) as being anticipated by Kim et al. (herein after "Kim"). Rejections against claims 40-43 have been rendered moot by their cancellations. For at least the reasons set forth below, claims 32-34 and 37-39 are patentable over Kim.

As to claim 32, claim 32 has been amended to recite, among other things, "a second spacer surface that is opposite from the first electrode surface, wherein the

spacer is positioned to create a separation distance between the first electrode and a transition point located between the first spacer surface and the second spacer surface; and a ferroelectric layer formed on the first electrode and the spacer, the ferroelectric layer being in contact with at least the first spacer surface and the second spacer surface.” Underline added. Applicant respectfully submits that such features are not taught or suggested by Kim.

In particular, the Examiner in the Final Office Action cites Figures 20-24 of Kim as allegedly showing “a spacer positioned on the support surface adjacent to the first electrode surface, the spacer having a first spacer surface that is substantially parallel to the support surface and includes a transition point, wherein the spacer is positioned to create a separation distance between the first electrode and the transition point...” However, neither of the surfaces of insulating layer pattern **153a** depicted in Figures 20-24 that are opposite from bottom electrodes **151** and intersect lower interlayer insulating layer **74** are in contact with ferroelectric layer pattern **155**. Rather, each of these surfaces abut bottom electrodes **151** and, thus, are shielded from contact with ferroelectric layer pattern **155**. Therefore, Kim **does not** disclose “**the ferroelectric layer being in contact with at least the...the second spacer surface.**” Furthermore, since the premise of Kim is to form an insulating layer pattern **153a** in the gap between bottom electrodes **151** by planarizing a lower insulating layer **153** to expose the upper surfaces of bottom electrodes **151**, one would not be motivated to modify the spacer insulating pattern **153a**, as taught by Kim, such that the surfaces that are opposite from bottom electrodes **151** are in contact with ferroelectric layer pattern **155**.

For at least these reasons claim 32 is patentable over Kim. Furthermore, claims 33-39 directly or indirectly, depend from claim 32 correspondingly incorporating its limitations. Therefore, these claims are patentable for at least the same reasons.

35 U.S.C. 103(a) rejections

Claims 35 and 36 are rejected under 35 USC 103(a) as allegedly being unpatentable over Kim in view of Fukuda et al. (hereinafter, "Fukuda"). Applicant respectfully requests reconsideration of this rejection for at least the following reasons.

Claims 35 and 36 both depend upon, and include the same limitations as claim 32. Because Kim fails to teach the above discussed elements and further because Fukuda does not teach, suggest, or imply modifying Kim in order to provide for these missing elements, claims 35 and 36 are patentable over this combination for at least these reasons.

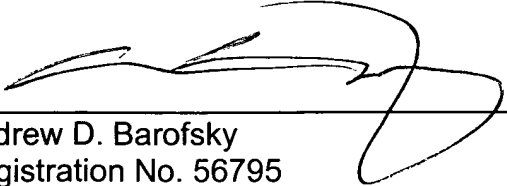
Conclusion

In view of the foregoing, the Applicant respectfully submits that claims 2-9, 11, 26-28 and 32-39 are in condition for allowance. Thus, early issuance of Notice of Allowance is respectfully requested. The Examiner is encouraged to telephone the undersigned if there are any remaining questions of patentability, and a telephone interview would be helpful in resolving these questions.

The Commissioner is hereby authorized to charge shortages or credit overpayments to Deposit Account No. 500393.

Respectfully submitted,  
SCHWABE, WILLIAMSON & WYATT, P.C.

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